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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,032	11/21/2001	Pedro Queiroz Vieira	NEU35	1426

7590 04/10/2002

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EXAMINER

PAIK, SANG YEOP

ART UNIT	PAPER NUMBER
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3742

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DATE MAILED: 04/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,032

Applicant(s)

VIEIRA, PEDRO QUEIROZ

Examiner

Sang Y Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/919125 ^{and} 09/918,898.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, there is no proper antecedent basis for "the upper shell and the lower shell".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schimanski et al (US 5,222,186).
5. Claims 13-15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ruffolo et al (US 6,236,807).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 5-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schimanski et al (US 5,222,186) or Ruffolo et al (US 6,236,807) in view of Barrington (US 3,414,864).

Schimanski et al or Ruffolo et al shows an evaporation device including a housing, a heating unit disposed in the housing having a heating block, an electric resistance element carried by the heating block, a container with a wick. However, the claimed electric resistance element including a rod-shaped resistance body coated with a resistance layer is not shown.

Barrington shows an electric resistance element in a rod-shaped resistance ceramic body with a resistance layer in the form of a metal film coated thereon, and a terminal cap for electrical connection. The electric resistance of the film is then adjusted by removing narrow bands of the film by cutting. In view of Barrington, it would have been obvious to one of ordinary skill in the art to adapt Schimanski et al or Ruffolo et al with the heating element shown in Barrington as an alternative heating element that can provide an accurate electric resistance to generate an accurate desired heating temperature.

With respect to claim 6, Ruffolo et al shows an opening into which a heater is disposed therein (see Figure 4), but Ruffolo et al does not explicitly show slits for the electric lines (see Figure 6). However, it would have been obvious to one of ordinary skill in the art to provide slits

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in the heating block to conveniently accommodate the electrical lines so that the electric lines are not damaged or hindered to make an electrical connection to the terminal blades.

8. Claims 3, 4 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schimanski et al or Ruffolo et al in view of Barrington as applied to claims 1, 2, 5-12 and 16 above, and further in view of Plough Jr et al (US 4,498,071).

Schimanski et al or Ruffolo et al in view of Barrington discloses all the structure claimed except the resistance layer is metal oxide of a nickel/chrome alloy with the ceramic material having a high content of alumina.

Plough Jr et al teaches that it is well known in the art to provide a nickel/chrome alloy coated on alumina. In view of Plough Jr et al, it would have been obvious to one of ordinary skill in the art to adapt Schimanski et al or Ruffolo et al, as modified by Barrington, with a nickel/chrome alloy resistance layer coated on an alumina ceramic substrate to provide a heating element that can provide a stable heating over a broad temperature range.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y Paik whose telephone number is 703-308-1147. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3463 for regular communications and 703-305-3463 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

S. Paik

Sang Y Paik
Primary Examiner
Art Unit 3742

syp
April 4, 2002